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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/520,249	03/07/2000	Richard Henry Weese	99-009 (RH2-0011)	9888

7590 01/24/2006

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EXAMINER

CAIN, EDWARD J

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 01/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/520,249	Applicant(s) WEESE ET AL.	
	Examiner Edward J. Cain	Art Unit 1714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 32-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 33-35 and 42-44 is/are allowed.
- 6) ☒ Claim(s) 32 and 36-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

The amendment received 19 December 2005 has been made of record. Claims 32-44 are pending.

The finality of the previous office action is withdrawn. Prosecution on the merits is hereby reopened.

Upon further consideration, a newly framed rejection based on prior art of record is set forth below.

Claims 32, 36-39 and 41 are rejected under 35 U.S.C. 102(b) as being anticipated by GB '185.

GB '185 discloses polyvinyl chloride compositions comprising graft polymerized impact modifiers. These impact modifiers are taught as prepared by grafting onto coagulated particles in latex. Suitable monomer components are taught as methacrylate, styrene and butadiene. The compositions are taught as prepared by blending the latex with polyvinyl chloride. While the reference may not explicitly teach the incorporation of the latex modifier into a powder of polyvinyl chloride, it is the position of the examiner that there would be no patentably distinct properties between the resulting compositions.

Applicants have directed the examiners attention to examples and tables in the instant specification. However, a showing of unexpected results flowing from the addition of a latex to a powder as compared to a latex to a latex is not apparent.

Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over GB '185 in view of Ludwig.

GB '185 discloses impact modified PVC compositions as discussed above. The reference fails to explicitly recite the additives of claim 40.

Ludwig, however, teaches the suitable addition of adjuvants such as claimed by applicant to similar impact modified PVC compositions.

It would have been obvious to one of ordinary skill in the art to incorporate common adjuvants as taught by the secondary reference into the compositions of the primary reference when their art known effects were desired.

Claims 33-35 and 42-44 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward J. Cain whose telephone number is (571) 272-1118. The examiner can normally be reached on M-F from 10:00 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan, can be reached on 571 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Edward J. Cain
Primary Examiner
Art Unit 1714

A handwritten signature in black ink, appearing to read 'E. Cain', written in a cursive style.